UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff,	Case Number <u>CR-09 mi - 70036 PV7</u>
VOI 111 1- Harria	ORDER OF DETENTION PENDING TRIAL
Clemente Hernanda, Defendant.	
In accordance with the Bail Reform Act, 18 U.S.	C. § 3142(f), a detention hearing was held on 1/2/
probont, represented by his attorney	The United States was represented by
Assistant U.S. Attorney X, Werry	. The officed states was represented by
PART I. PRESUMPTIONS APPLICABLE	
/ / The defendant is charged with an offense des	cribed in 18 U.S.C. § 3142(f)(1) and the defendant has been
offense, and a period of not more than five (5) years has el	apsed since the date of conviction or the release of the person from
imprisonment, whichever is later.	speed since the date of conviction of the release of the person from
This establishes a rebuttable presumption that no	condition or combination of conditions will reasonably assure the
safety of any other person and the community.	condition of conditions will reasonably assure the
/ / There is probable cause based upon (the indice	tment) (the facts found in Part IV below) to believe that the
defendant has committed an offense	inent) (the facts found in Part IV below) to believe that the
	annount of 10 announce
seq., § 951 et seq., or § 955a et seq., OR	onment of 10 years or more is prescribed in 21 U.S.C. § 801 et
B. under 18 U.S.C. & 924(c): use of a fire	earm during the commission of a felony.
This establishes a rebuttable presumption that no or	ratification and the commission of a felony.
appearance of the defendant as required and the safety of the	ondition or combination of conditions will reasonably assure the
No presumption applies.	s confinumity.
PART II. REBUTTAL OF PRESUMPTIONS, IF APPLICABLE	
/ / The defendant has not come forward with any	widence to rebut the applicable presumption[s], and he therefore
will be ordered detained.	vidence to rebut the applicable presumption[s], and he therefore
/ / The defendant has come forward with evidence	to rebut the applicable assessment of the second
	to room the applicance presumption[s] to wit:
Thus, the burden of proof shifts back to the United S	tates
PART III. PROOF (WHERE PRESUMPTIONS REBUTTED OR II	NADDI ICADI D
Y The United States has proved to a preponderance	e of the evidence that no condition and
and appointment of the desentant as ren	INTEG AND MOR
/ / The United States has proved by clear and convi	ncing evidence that no condition - 1
assure the safety of any other person and the	Community
PART IV. WRITTEN FINDINGS OF FACT AND STATEMENT OF	REASONS FOR DETENTION
The Court has taken into account the factors set of	out in 18 U.S.C. § 3142(g) and all of the information submitted
at hearing and finds as follows: The de lendant	changed with a wal of the mornation submitted
He is undocumented. as a sure	ule he has a ling history of his that
the criminal mestice survey we by	to be alread way to all and
his aloshol problem Continu	le as does his convections involves
automobiles uspick have blacome de	a superior como la como la como como como como como como como com
alcohol and drugs interfer but	he his ability to Able a word a cold a sund
prohotion Conditions.	The said success many
// Defendant, his attorney, and the AUSA have waive	ed written findings.
PART V. DIRECTIONS REGARDING DETENTION	
The defendant is committed to the custody of the Attorney	General or his designated representative for confinement in a
office the second secon	2W2Iting or serging contoness and 1 111
-Production and the attorney a reasonable opportunity	for private consultation with defense
of the Govern	ment, the person in charge of the corrections facility shall delice
the defendant to the United States Marshal for the purpose of an arr	or and outloading lacinty shall deliver

the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

PATRICIA V. TRUMBULL United States Magistrate Judge

UNITED SFATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

	THE STATE OF THE OTHER
UNITED STATES OF AMERICA, Plaintiff,	Case Number <u>CR-09 mi -70036</u> PY7
Clemente Hernanda Defendant	ORDER OF DETENTION PENDING TRIAL
In accordance with the Bail Reform Act 1811SC	8 3142(f) a detention have
Defendant was present, represented by his attorney	y 51-72(1), a detention nearing was held on
Assistant U.S. Attorney L. Deus fu	. The United States was represented by
PART I. PRESUMPTIONS APPLICABLE	
/ / The defendant is charged with an offense descri	ibed in 18 U.S.C. § 3142(f)(1) and the defendant has been
offense, and a period of not more than five (5) years has elan	osed in 18 U.S.C. § 3142(f)(1) and the defendant has been (1) while on release pending trial for a federal, state or local osed since the date of conviction or the release of the person from
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This establishes a rebuttable presumption that no con	ndition or combination of conditions will reasonably assure the
- may of the person and the community.	
/ / There is probable cause based upon (the indictor	nent) (the facts found in Part IV below) to believe that the
may be committed an offense	
A for which a maximum term of imprison	ment of 10 years or more is prescribed in 21 U.S.C. § 801 et
seq., § 951 et seq., or § 955a et seq., OR	7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7 7
B. under 18 U.S.C. § 924(c): use of a firear	rm during the commission of a felony.
this establishes a reductable presumption that no con	Idition or combination of conditions at
11 state of the desirement as required and the safety of the	
No presumption applies.	JAN 222009
PART II. REBUTTAL OF PRESUMPTIONS, IF APPLICABLE	Circ.
/ / The defendant has not come forward with any evi	idence to rebut the applicable presumptions and be therefore
will be ordered domined.	JUSE THE ORIVIA
/ / The defendant has come forward with evidence to	rebut the applicable presumption[s] to wit
Thus, the burden of proof shifts back to the United Sta	ites.
PART III. PROOF (WHERE PRESUMPTIONS REBUTTED OR IN	APPLICABLE)
1 Ine United States has proved to a preponderance	of the evidence that no condition or combination of conditions
about the appearance of the defendant as regin	ired AND/OR
/ / The United States has proved by clear and convinc	cing evidence that no condition or combination of conditions
assure the safety of any other person and the co	mmunity
PART IV. WRITTEN FINDINGS OF FACT AND STATEMENT OF F	REASONS FOR DETENTION
The Court has taken into account the factors set ou	at in 18 U.S.C. § 3142(g) and all of the information submitted
as houring and mids as 10110WS. The definding is	changed with a violation of 2/150 8396
He is undownerfled. as a suren	Le he has a long history Muntary with
the criminal pustice supreme we has	on alcohol nother as an adult
his alcohol problem continuel	e as does his convections involven
sustamobiles infrient have become fel	eries His substance aluse, both
allogot and arise interfer with	his ability to abey was torders may
Southon Conditions.	
/ / Defendant, his attorney, and the AUSA have waived	written findings.
PART V. DIRECTIONS REGARDING DETENTION The defendant is committed to the second secon	
Corrections facility concerns to the custody of the Attorney (General or his designated representative for confinement in a
observed in the separate to the extent practicable from persons as	Walting or compagation of the last transfer of transfer of the last tran
appear. The detendant shall be altorded a reasonable opportunity to	T nrivate consultation with defense
of the United States or on the request of an attorney for the Government the defendant to the United States Marshal for the purpose of an appearance of the United States of the purpose o	lent the nerson in charge of the same at the case of the same of t
	Total a court proceeding.

SA ATTY, PTS PATRICIA

PATRICIA V. TRUMBULL United States Magistrate Judge